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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,822

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Mika Meller

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7590

12/11/2009

ROTHWELL, FIGG, ERNST & MANBECK, P.C.

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SUITE 800

WASHINGTON, DC 20005

EXAMINER

HOOK, JAMES F

ART UNIT

PAPER NUMBER

3754

NOTIFICATION DATE

DELIVERY MODE

12/11/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Office Action Summary	Application No. 10/564,822	Applicant(s) MELLER ET AL.	
	Examiner James F. Hook	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 4 and 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>1/18/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of group I in the reply filed on November 2, 2009 is acknowledged. The traversal is on the ground(s) that the method and article claims form a single inventive concept since the claimed insulation is produced by the claimed method. This is not found persuasive because other methods can be used to arrive at the claimed insulation and it is not the only method that could be used to create the article. Further, the method could be used to form other articles not necessarily the claimed article only, and the method and article have diverging subject matter and limitations which are not required in the other invention therefore this is not a single concept when further concepts are brought forth in the method that were not in the article claims thereby not forming a single concept.

The requirement is still deemed proper and is therefore made FINAL.

Claims 4 and 6 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on November 2, 2009.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the internal surface

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coverage by fibers being 2-20 percent must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weibel (EP 1,208,962) in view of Harada (EP 162,645). The reference to Weibel discloses the recited polymeric foam tube for pipe insulation comprising an internal and external surface, where a gliding material layer is provided on the inside of the tube in the form of fibers to help as insulation as well as gliding ability of the foam insulation layer. The reference to Weibel discloses all of the recited structure with the exception of stating an adhesive layer holds the fibers such that they stand up from the surface, and the percent coverage and density of the fibers, however it is considered merely a choice of mechanical expedients where one skilled in the art would have found it obvious to use routine experimentation to establish the proper coverage and density of fibers required to meet the needs of the user as such would only require routine skill in the art as it is an obvious choice of mechanical expedients and where using fewer fibers would save in costs. The reference to Harada discloses that it is old and well known to attach fibers 3 to a base layer 1 using an adhesive layer 2, where the base layer can be many different things that are provided with a fiber layer for various reasons including heat resistivity which is insulative properties. It would have been obvious to one skilled in the art to modify the fiber layer in Weibel by providing an adhesive layer to hold the fibers such that they stand up from the surface as suggested by Harada where such is a known equivalent way to attach fibers to a base structure for insulative purposes where such would also inherently provide better sliding quality as well if the fibers were on end and the adhesive would help prevent premature loss of fibers requiring repair and thereby saving costs.

Claims 1-3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tippins in view of Hakamada . The reference to Tippins discloses the recited polymeric foam tube for pipe insulation comprising an internal and external surface, where a fiber insulation layer 16a is provided on the inside of the foam tube 16b in the form of fibers to help as insulation where the fiber layer has a higher melt temperature than the foam, and the insulation layers are sprayed with adhesive. The reference to Tippins discloses all of the recited structure with the exception of stating that the fibers stand up from the surface, and the percent coverage and density of the fibers, however it is considered merely a choice of mechanical expedients where one skilled in the art would have found it obvious to use routine experimentation to establish the proper coverage and density of fibers required to meet the needs of the user as such would only require routine skill in the art as it is an obvious choice of mechanical expedients and where using fewer fibers would save in costs. The reference to Hakamada discloses that it is old and well known to attach fibers 3L to a base layer 2 in such a manner as they stand out from the layer to form an insulating fiber layer where the amount of fibers used is less than 100% of the interior of the base layer. It would have been obvious to one skilled in the art to modify the fiber layer in Tippins by providing the fibers such that they stand up from the surface as suggested by Hakamada where such is a known equivalent way to attach fibers to a base structure for insulative purposes where such would also inherently provide better insulative properties by creating an air space.

Claims 1-3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tippins in view of Harada (EP 162,645). The reference to Tippins discloses the recited polymeric foam tube for pipe insulation comprising an internal and external surface, where a fiber insulation layer 16a is provided on the inside of the foam tube 16b in the form of fibers to help as insulation where the fiber layer has a higher melt temperature than the foam, and the insulation layers are sprayed with adhesive. The reference to Tippins discloses all of the recited structure with the exception of stating that the fibers stand up from the surface, and the percent coverage and density of the fibers, however it is considered merely a choice of mechanical expedients where one skilled in the art would have found it obvious to use routine experimentation to establish the proper coverage and density of fibers required to meet the needs of the user as such would only require routine skill in the art as it is an obvious choice of mechanical expedients and where using fewer fibers would save in costs. The reference to Harada discloses that it is old and well known to attach fibers 3 to a base layer 1 using an adhesive layer 2, where the base layer can be many different things that are provided with a fiber layer for various reasons including heat resistivity which is insulative properties. It would have been obvious to one skilled in the art to modify the fiber layer in Tippins by providing the fibers such that they stand up from the surface as suggested by Harada where such is a known equivalent way to attach fibers to a base structure for insulative purposes where such would also inherently provide better insulative properties by creating an air space.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Slayter, Lowthian, Lemont, Weil, Metcalfe, Atwell, and Collie disclosing state of the art insulations.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James F. Hook/
Primary Examiner, Art Unit 3754

JFH